

**MINUTES OF THE  
PUBLIC RECORDS COMMISSION MEETING  
Thursday, January 6, 2011  
10:30 A.M.**

**Commission Members Present:**

Tre Hargett, Secretary of State  
Joseph Barnes, Director, Office of Legal Services  
Rick DuBray, sitting in for David Lillard, State Treasurer  
Gwendolyn Sims Davis, Commissioner, Department of General Services  
Faye Weaver, sitting in for Justin Wilson, Comptroller of the Treasury

**In Attendance:**

Elizabeth Crawford, Department of General Services  
Pennye Neal, Department of General Services  
Angelita Dobbs, Department of General Services  
Stacey Hooper, Department of General Services  
Eddie Weeks, Office of Legal Services  
Tricia Kitchens, Department of Finance & Administration  
Roger Hamby, Attorney's General Office  
Michael Smith, Department of Correction  
Thaddeus Watkins, Department of General Services  
Tom Chester, Department of General Services  
Cathi Carmack, Tennessee State Library and Archives  
Wayne Moore, Tennessee State Library and Archives  
Christi Poston, Department of Environment and Conservation  
Elisha Hodge, Comptroller of the Treasury  
Vickie Smith, Supreme Court  
Brenda Boatman, Department of Human Resources  
Mona Hart, Secretary of State  
Linda Little, Bureau of TennCare  
Amanda Crow, Bureau of TennCare  
Jamie Fohl, Department of Treasury

**I. Welcome and Call to Order**

Tre Hargett      Thank you for your attendance this morning.

**II. Approval of August 3, 2010 PRC Meeting Minutes**

Tre Hargett      I will start first item on our agenda is the approval the September 1, 2010 meeting minutes. I entertain the notion to approve those unless there are any changes that will need to be made to those minutes. Properly moved. Properly seconded. Any objections to the motion? Seeing none without objection, the minutes are approved.

**III. Review of Electronic Records Policy**

Tre Hargett      The next item on our agenda is the review of the Electronics Records Policy. I know that staff over the last few years has put a lot of work into developing this policy. I wouldn't say we are behind but it is overdue because of the increasing number of electronic records that we have. The Public Records Committee formed an E-Records Team and asked them to research and draft a policy and proposal. I want to thank them for their many hours they have put into to developing this policy. I think it is appropriate thing to do at this time. Mr. Watkins, I'm going to turn the floor over to you and maybe ask you to discuss that policy a bit and give some of history of it. Whatever you feel that we need to know, I hope you would share that with us.

Thaddeus  
Watkins      There are members of that party who are present that goes back to the genesis, I believe. I believe, it goes back to 2007 or even prior discussion. As though the whole world of electronic communication has been evolving and became a moving target. Last spring the committee adopted a draft up and asked the staff from our department who was present at that meeting, to go ahead and consider developing these ideas into formal regulations for the State.

The policy is what all the members have in front of you. It is very ambitious. I believe it was based on models in several jurisdictions. It attempts to embrace the whole world of electronic communication and to the extent that it covers records documents that needs to be preserved. It is very ambitious. It sets down some extremely specific and technical guidelines. It also has a number of administrative provisions that place a number of affirmative obligations- very aggressive affirmative obligations on all State agencies. This will be necessary to completely bring this group to fruition. It places certain authorities on our sister department – Department of Finance & Administration – OIR. It dictates the Department of General Services is in charge of enforcing and monitoring all of these standards. Whereas, the Office of Information Resources would be the last word of all these standards, they would have the authority of delivering the information.

Without any question, we have a huge document. Number one; there is some discussion as where something like this should be done as formal rule making or should be done as a policy. That is a separate discussion that may needs to happen later. I know there are a lot of people that need guidelines or applications inside State government. It may be others that are requiring it inside State government than things applied outside State government. The major things we want to bring up is this is very ambitious in where are the agencies are going to get this expertise to apply with all of this. That is unanswered. It's a fine piece of work. But there is no training. There are no resources. There's nothing that would create a legal standard of which certain legal issue could high or certain audit issues could rise. We wanted to discuss that particular concern and issue and mention it is still a work in process. For it is appropriate adoption it regulation besides the obvious format issues. A lot of work, a lot of work still needs to be done with it. It's already still moving target.

Tre Hargett      I think you raise a lot of very valuable points. I had a conversation yesterday with Mark Bengal, from OIR and Tricia Kitchens. They have told me they have already actually

begun working on a plan to provide training for the agencies. They agreed to take that on. They really have stepped up to the plate with that regard. There is no doubt that just like anything we do in State government or private sector, when you take a first stab at something this ambitious – it's not going to be perfect. I think we can all agree on that. I think more importantly, the option of not doing nothing is not an option. As we go through this, we are going to find things that we will say we need to rethink that. I think we all need to have an understanding that it is a work in process that we can come back in make changes as needed. I agree with your counsel that mentally we cannot get so far down the road that this cannot be tweeted if necessary. I hope that is how you are describing it. If so, then that will be keeping in what I feel as well. Any other staff has any comments they want to make in addition with what Mr. Watkins was said.

Wayne Moore There is several people here who participated in the committee, did the work and drafted that document. That was always seen as an initial step in phase one in a larger endeavor. Tennessee has somewhat been behind the curve of many states as enacting policy with regard in electronic records. I just think it is fundamental, important need that has to be address. This is a good step in keeping in the predominate standards in other states actions with regard of public records kept in electronic forms. For us not to begin to codify that and go down that path, we leave an incredible deficit as the public records increasing being generated including electronic form. These are very important, legal , evidential records of State government that we are working with here. I think this was never designed to be an end product but rather a first step.

Tre Hargett Thank you Mr. Moore. If I just can call the names of those who were members of the E-Records team:

- Mark Bengel, Department of Finance & Administration - OIR
- Tricia Kitchens, Department of Finance & Administration - OIR
- Donna Bridges, Department of General Services
- Cathi Carmack, Tennessee State Library and Archives
- Wayne Moore, Tennessee State Library and Archives
- Roger Hamby, Attorney's General Office
- Elisha Hodge, Comptroller of the Treasury

Also, Mr. Watkins, I don't know if we need to have a discussion now on this, but the policy does mention the Electronic Records Committee. It would certainly be my thought that the people who served on the Records Team would be considered the Electronic Records Committee. I know of at least one person who would not be considered a member of the E-Records Team. We do need to give consideration to know that the different agencies will have the opportunity to put somebody on this Electronic Records Committee. I don't think we have a limited to the number of members. We have the opportunity to as we see a need if we need to add more people to or change the people to this committee. I believe this body is empowered to do that. Would you agree with that?

Thaddeus  
Watkins Yes.

Tre Hargett      Other members?

Joseph Barnes    What's the next step?

Tre Hargett      Mr. Watkins, I am assuming I am going to make a motion in a moment and actually Mr. Barnes. Maybe the best thing to do is go ahead and pair by what my motion is going to be. Maybe then Mr. Watkins, you can describe what the next step that will be.

My motion is going to be to adopt the Electronic Records Policy adopted by the Public Records Committee – Electronic Records Committee on January 2010 as the policy for all the agencies in the State of Tennessee related to the proper management of any unstructured electronic records owned, leased or controlled by the State of Tennessee to the extent permitted by law. This policy however, should be recommended and not mandatory to July 1, 2011 or such later date necessary to accommodate the appropriate training made available to all State agencies to ensure compliance with the Electronic Records Policy.

So it obviously gives us time with we need to change that date later on. I'll be honest, in my mind, six months may be ambitious but a year doesn't seem ambitious enough. So, this kind of splits the baby, in my opinion. It is the position of the Public Records Committee that the legal custody of all electronic records shall reside with the specific State agency where the records originated and that any request for inspections of such records shall be address by those agencies.

That's going to be the motion I would offer. Mr. Watkins, what would you describe happen after we approve that motion?

Thaddeus  
Watkins

Mr. Chairman, after you adopt that motion, it would be a fact that the State of Tennessee does have a policy on Electronic Records. It is more than aspirational. It is a recommended, best practice, a target to aid for and also it doesn't preclude tweaking and polishing of the policy. For example, this policy was pre-Edison. It may not have been able to take that in to account. But it also protects the State from adopting a policy and applying it and not being able to comply with it. Without the orientation and training of your Records Management Officers and other appropriate agency officials such as other staff, it is worthless. You can prescribe and prescribe and prescribe and mandate and mandate and mandate but nobody is going to understands it or trade with it – it won't even stick to the wall. It will be a meaningless, profitless endeavor. So, with this, it keys it to training and we have an organization in the State of Tennessee where we have concentrated are information resources. We have got to look to them for the training and the help. Now meanwhile, I think Commissioner Davis and Ms. Crawford will have further discussion a little later on further in this meeting. Records Management department wants to take a more aggressive and active role in this information side of it. We have an Information System Office who has previously not been heavily involved with this as you know. We have gotten into it and have looked to build on that. So, going forward using this as the model to move onto the next step, this is what you aim for. You have a policy that you can mature and you have the capability out there with the agencies before it becomes mandatory. I think it ought to be

something that the commission revisits at the appropriate time and just say well we think it's time to do formal adoption as a rule or whether it will be an internal State policy.

Tre Hargett From a practical standpoint, I would envision that correspondence would go out to each agency and their Public Records Officer informing them of what we have done today. That would need to come from the Department of General Services or this committee or a joint letter of some sort. Then I would envision on us following up on that OIR should be sending a letter to those same individuals saying we have developed training appropriate for your agency. Please contact us to schedule such training. I think then both Department of General Services and this committee will review a report back at the next meeting to track the contact of how many of those agencies who have reached out and become proactive about getting that training. Let's figure out where we are. That's what I think is a practical matter is our next step. Do you see any problem with that Mr. Watkins?

Thaddeus Watkins No, I think Mr. Chairman, that's the way to go. I think a tremendous amount of work has gone into this. But I think everyone needs to understand, by the time it's over, every State employee who operates an electronic communication device will have to understand you going to have to save this; you can't destroy that or you have to do this. That's where this is going before it's all over. That's the way it should be. Think about that is the first step in training is contacting the agencies. It's going to be a long road. We talked about it and we are losing the historical record of the people after us as to why we made decisions and why things happened. We are losing that record entirely. It's a race against time but in the same people have to be trained. That's understood. It's a way to start the ball rolling. It's going to require training with not only the Records Management people but the IT people in their departments and also there attorneys, as well. It's going to require all of that. So what that said, are there any members of the committee can give any further statements about that and what they envisioned as far as the training?

Roger Hamby I think I heard that there will be a resolution for the issue that this will need to be a public statute or formal rule. There will be further discussion about that. The other thing, I would ask the other staff, I believe the document actually gives the responsibility for training to the General Services staff.

Thaddeus Watkins That is one of the points needs to be addressed. I'm not sure if the Department of General Services had the technical capability to do that training. How responsible is that?

Roger Hamby At the time, the staff of General Services thought they were the appropriate party that could that could teach. I could understand that staff is not here now but that was the reason at the time. If that's the case then we may need to modify the document.

Commissioner

Sims Davis I think Thad has explained the document perfectly in content. We know that we must have a policy. That going forward we can add, modify and reformat as needed in time. I am very happy with the policy.

Angelita Dobbs We I know as we establish the Electronic Records Committee, we would include our General Services IT Director as well as myself to ensure that our IT involvement is in line with what OIR mandates and would like to have that done as well.

Tre Hargett Ok. What I need is a objection before I offer up the motion I spoke of a moment ago, is to amend that any reference of General Services providing this training to be changed that wording to Department of Finance and Administration, Division of Office of Information Resource. I obviously don't have all the pages that it is reference. I will ask the staff to get a final document out and changing those references. Can we get that done?

Angelita Dobbs Yes.

Mr. Hargett Properly moved. Properly seconded. Any objections to the motion? Then the document shall be amended. Ms. Kitchens, do you have something you want to say.

Tricia Kitchens I apologize for Mr. Bengal. He had another meeting today and wasn't able to attend. I think the important thing for us to do is know there is a wide array of people that needs to be trained on this document - starting from end user, records people to IT people. One of our first tasks in OIR will be to develop a training plan and the types of training we will need for each of those identified specific set of people defined in the policy. We have a meeting scheduled next week and we will start working on that so we can provide the Committee with a plan on how we will do this. It is going to be critical to have General Services people helping with the curriculum to explain the RDA procedures. It is going to be a quick effort to do this by the date. We have already developed a lot of the training materials on our side but it's the other piece of information that is missing we need.

Tre Hargett Thank you Ms. Kitchens. Cody York just pointed out to me that the motion I made would affect page 24, #7. You see the box at the top where it mentions Records Management Division, Department of General Services. Obviously, that will be changed to Division of Office of Information Resource, Department of Finance and Administration. Then in the last few words under responsibilities, that would be changed to reference Office of Information Resource, Department of Finance and Administration.

Ok, does anybody need for me to offer my motion again? Properly moved. Properly seconded. Objections? Motions prevails.

#### **IV. Review of Statewide RDA Revisions**

Tre Hargett The second item we have on our agenda is the review of Statewide RDAs and revision. Ms. Crawford.

Elizabeth

Crawford

My Records Analysis Team has been reviewing Statewide RDAs. As we begin our task of reviewing those RDAs, our objectives were to: revise the open-ended retention schedules; simplify the RDAs to make them easier to read; and remove duplications and merge the RDAs that were similar and redundant. So in this process, we consulted with Kandi Thomas in the Comptroller's Office; Wayne Moore, Library and Archives; Cody York, Secretary of State Office; and representatives from DOHR and FA. So, if you would turn to the colored spreadsheet in the back, on the spreadsheet you will see: the red fonts are our recommended changes; and the yellow highlighted RDAs are actual new RDAs that we are recommending to be comprised of the merged RDAs listed below in black; all the black font are all the old RDAs and their information; the miscellaneous section on the second page are stand-alone RDAs – there are minimal changes there with the exception of we are recommending some new RDA numbers reducing to four digits instead of ten digits numbers to make them easier to identify; there are two of those RDAs that we are recommending a new retention schedule in red.

There are minimal recommendations for deletions but under the conversion and deletion section we are recommending that four RDAs be converted to agency specific and we have spoken to all of those agencies and they agree. We have three RDAs that we are recommending be removed based upon the retention schedule being one week and then one case being two months. We didn't feel that it was necessary. So our results of our review, as we started out with 59 Statewide RDAs and based upon our recommendation, we are hoping to reduce the number to 18 Statewide RDAs. Most again, to be merged into one, we renumbered those RDAs, reducing them into four digits and renamed some of them to make them easier to identify.

One of the big things we also did was we revised our disposition and retention schedule. A good example of that, we had a lot of RDAs that stated destroy files after the required audit. Because this was so open-ended, we were keeping files a lot longer than necessary. No one was really tracking whether or no they had been audited. So we changed after meeting with the Comptroller's Office, we agreed we should change those to destroy the files after the required audit or when five years old – whichever occurs first. They agreed that five years was plenty enough time for State Audit to review the RDAs but they usually don't look back past five years. That will allow us to destroy records more properly.

The spreadsheet gives an overview of everything we have tried to do. Mostly, we are trying to merge RDAs that are redundant. For example, if you look at the Accounting & Finance, we had a significant number of RDAs specifically for JV Billing. They had similar retention periods. After meeting with F&A, they agreed that this was really unnecessary and we can reduce that into one RDA. It's important that I clarify we didn't delete any of the verbiage from any of those RDAs. We just merged, combined and revised the way it was worded and listed all of those examples for all of those individual RDAs into the one. So it should be really easy to follow for all of the State agencies. Basically and hopefully, if these procedures and formats are approved by the commission, it will be our foundation for my team to move forward as we attempt to review all of the remaining agency's specific RDAs.

- Tre Hargett Any of the staff have anything to offer? If I can Ms. Crawford, thank you for you all hard work on this. I want to confirm, we didn't delete any RDAs. What we have done is we have merged and in some cases we have changed the retention period?
- Elizabeth Crawford Yes.
- Tre Hargett That's been one of the interesting things occurred after the flood. There are so many things we learned from that process. We have a lot of things that will balance and try to achieve is you don't want to let something go too soon. It still may have value but realizing that at some point really there is no value for that document being storage somewhere. That's really the balance that needs to be achieved. I really appreciate the departments across the State government who has stepped up who have really tried to help us to achieve a new balance there. Whether people realize it or not, there is a great cost to restore all these documents. There is another great lesson learn, if we didn't know it before- we certainly know it now. Cody?
- Cody York Just in order for us to be specific, in adopting these recommendations would delete three of these RDAs. There are the last three on the page that have extraordinarily short life cycles. Those are the only ones that will be deleted.
- Tre Hargett I would accept a motion to approve the recommendation made by Ms. Crawford and her committee. Properly moved. Properly seconded. Any objections to discuss the motions? The motion is approved.

## **V. Discuss the Records Management Update**

- Tre Hargett Ms. Dobbs is here for the Records Management update.
- Angelita Dobbs We know as a result of the May flood, there were many deflections that were noted in our Records Management Division. As a result of that, we decided that there needs to be some major reorganization within the Department of General Services to ensure that we fulfill our responsibilities to provide the State with a proper Records Management Division that can meet the minimal uniform requirement for records management of accountability, transparency, integrity, protection, compliance, availability, retention and disposition. As a result of that, we began merging our Records Management Division within two of our divisions – Warehousing and Distribution. Next, we divided the Records Management into two distinct areas – Records Operation and Records Analysis. Our Records Operations Business Unit consists of developing procedures for storage retrieval and disposition of records. We developed a contract with Richards & Richards to provide storage for our inactive records. We formed an inventory team to monitor the transport of records from our Cowan Street and TRICOR locations to our contracted location. This was completed in September 2010.
- As of January 4<sup>th</sup>, we had approximately 114,000 boxes assigned at Richards & Richards. We required each department to complete Records Officer Appointed Form accordance with T.C.A. As of 2011, we only have twelve agencies that have not officially appointed



a Records Officer that had previously had one. We exported all of our records management data from our old database system to the Richards & Richards' database. Each Records Officer completed a Records Security Form and onsite training to gain access to Richards & Richards' database. We developed a Records Storage Policy & Records Retrieval Policy for agencies to follow to store or request records from Richards & Richards. These policies were completed and submitted to all approved Records Officers as of December 2010.

We have requested and Richards & Richards has approved for us to have an individual from our IT division that will be an authorized user that will be able to pull record reports and run queries from Richards & Richards' database. In accordance to our Financial Integrity Act, we also worked with Richards & Richards' staff to identify key risks and controls and places to migrate those risks. We are also working with them to have someone from our Internal Audit Division to perform monitoring duties.

Our Records Analysis process will include reviewing and updating all RDAs, starting with the Statewide RDAs, which Elizabeth has gone over this morning. We are also working with Richards & Richards and our IT Division to develop an RDA database. Our goal is to update the Richards & Richards' database to include all our RDA information. We are developing a Records Analysis training program. We are also training the restoration of damaged boxes at Belfor. As of December 30<sup>th</sup>, we received approximately 1,040 boxes that were transferred from Belfor directly to Richards & Richards. We are expecting another shipment on Friday for the same amount.

Tre Hargett Any questions from the committee?

Faye Weaver I don't think I received the information you said you sent to the Records Officers.

Angelita Dobbs The training or the policies?

Faye Weaver Any of it. I got the policies but I didn't get the information about the training or retrieve boxes or whatever you were speaking on.

Angelita Dobbs It's included in the big packet of stuff we sent out. If you did not receive it, we can definitely get you another.

Faye Weaver Oh no, I think I have that one.

Joseph Barnes Where is Richards & Richards?

Angelita Dobbs They are located on Elm Hill Pike.

Tre Hargett Tell me how are we letting people know. Whenever you get a document like that, I think we probably need to have some type of cover letter stating you are expecting to complete some type of training and contact us so we can set up some sort of training. Is it something like that? Is it part of what you sent out?

Angelita Dobbs No. As we get a request for a Records Officer, they will submit it to our Administrative Assistant and she will say you need to complete this security form. Once this security form is completed, the Training Officer from Richards & Richards will contact you. We just documented that in the document so it would be back and forth.

Commissioner

Sims Davis I sent a letter to every agency's Commissioners asking them to appoint a Records Officer. As a result from that information coming back to us, then we began to communicate with people. We sent information to the Comptroller Office (unable to pickup audio) . . .

Angelita Dobbs From the Comptroller, we have Amy Czerkwinski. So she should have received a copy of the documents.

Tre Hargett Alright. I won't get to the management of it all. Once again, we have learned a lot of valuable lessons. You have a lot of goals to be achieved there. We have an opportunity to light that ship. This is a perfect example, in my opinion, if you don't do the simple blocking and tackling each and every day, you wind up with a flood of documents that you have no idea what they are, where they are and who they belong to. I personally consider us fortunate that we didn't have a worse situation than we have. We had a poor inventory system and the management of that system was poor as well. I hope we can pick up the ball and really have a system, that heaven forbid something else happens, that all the members and everybody in State government to not have to worry about it. In my mind, to know we have employed a system, to know the documents are where they say they are. We have what we say we have and we don't have to worry about it. It's one of those things where if you do your job, you don't have to think about it but if you don't do your job – that's when everyone realizes it. I leave it at that. I appreciate the work you all have done. I know our office has work pretty close with you all to make sure we have a better system in place. So thank you very much for all that.

Joseph Barnes Do we have any documents now in storage at Cowan Street?

Angelita Dobbs No. If we have custody of the documents, they are either in transit or at Richards & Richards. We don't keep any outside storage.

Joseph Barnes What's the estimated restoration project on the damage goods?

Jamie Fohl This is a long process. It takes several steps. It looks like it will be the better part of this year 2011 to get all those documents back to Nashville from Fort Worth, TX. I'll be going to Fort Worth next week to attend several meetings with the insurance company. So, I can get a better idea then. I did talk to the lady who is over that project in Fort Worth, who is working with Elizabeth. It's just a long process. They are sending trailers as they get through, which are about a thousand boxes in one trailer. I would say about nine months but hopefully it will be better. It's just a hard call.

Joseph Barnes Approximately how many boxes are in Texas?

Jamie Fohl      There is 117,000 boxes that's going to be restored. Then there will be approximately 7,000 that's going to be destroyed.

Tre Hargett      So you say we have 7,000 that are going to be destroyed. Tell me how that works. We can't destroyed them because we can't get to them. To me, if you have something we know has to be destroyed, you destroy it. I hate to say it that way. Maybe that's an over-simplification of it.

Jamie Fohl      I will find that out next week. I will know what they have done with those documents. I know there is a protocol, which was agreed upon with the Records Commission and Belfor. So I'll get that information.

Tre Hargett      Just to reiterate, we have identified 7,000 boxes to be destroyed. There is a cost associated with every one of those 7,000 boxes.

Elizabeth Crawford      I do have something to say there. As far as I understand it, when we was going through the process of identifying all those boxes, Belfor had already stored the boxes in the freezer. They were completely mixed up. When we presented our list of ones to destroy verses ones to restore, rather than taking everything out of the freezer, they are basically starting from the front and moving their way back. So as they pull boxes, they are comparing them to our list, sending us a list for verification and they are separating them as they go. Basically, the destroy boxes that are currently been identified from the ones they have gone through, do not yet fill a trailer. They have to be shipped to Panama City to be incinerated. So until they have a trailer full of boxes to send to Panama City, they are just being separated as they go through the boxes.

Cody York      It's cheaper to leave a box in the freezer.

Tre Hargett      I thought when we discuss that. Since Treasury – Risk Management is watching, I want to make sure that you agree with that assessment and that's the best way to do that. If you all believe that it is cheaper to do it a different way, then we ought to be doing that way.

Jamie Fohl      That was agreed upon because the whole process is expensive. To go in there to touch those boxes and you got a huge facility, it is cheaper. I promise you the insurance companies, the records billing consultants and the adjustors any other way would be more expensive.

#### **IV. Adjournment**

Tre Hargett      Ok. Thank you. Alright. Any other thoughts or questions? Ms. Crawford and Mrs. Dobbs, thank you very much. That's the end of our agenda, I believe. Any other items for discussion? I entertain a motion to adjourn. Properly moved. Properly seconded. Meeting adjourned.